

(iii) The grant of the application(s) does not require a waiver of the Commission's rules;

(iv) The applicant has determined that the facility(ies) will not significantly affect the environment as defined in §1.1307 of this chapter;

(v) The station site(s) does not lie within 56.3 kilometers of any international border or within a radio "Quiet Zone" identified in §101.123, or if operated on frequencies in the 17,700–19,700 MHz band, the station site(s) does not lie within the states of Colorado, Maryland and Virginia and the District of Columbia;

(vi) The filed application(s) does not propose to operate in the 10.6–10.68 GHz band, or in the 21.2–23.6 GHz band with an E.R.P. greater than 55 dBm pursuant to §101.147(s); and

(vii) The filed application(s) is consistent with the proposal that was coordinated pursuant to §101.103.

(2) Conditional authority ceases immediately if the application(s) is returned by the Commission because it is not acceptable for filing.

(3) A conditional authorization pursuant to paragraphs (e)(1) and (e)(2) of this section is evidenced by retaining the original executed conditional licensing Certification Form with the station records. Conditional authorization does not prejudice any action the Commission may take on the subject application(s). Conditional authority is accepted with the express understanding that such authority may be modified or cancelled by the Commission at any time without hearing if, in the Commission's discretion, the need for such action arises. An applicant operating pursuant to this conditional authority assumes all risks associated with such operation, the termination or modification of the conditional authority, or the subsequent dismissal or denial of its application(s).

(4) The Certification Form, or a copy thereof, must be posted at each station operating pursuant to this section consistent with §101.215.

§ 101.33 Who may sign applications.

See part 1 of this chapter (§§1.743 and 1.913), for practices and procedures governing signatures on applications,

amendments and related statements of fact.

PROCESSING OF APPLICATIONS

§ 101.35 Preliminary processing of applications.

(a) Applications received for filing are given a file number. The assignment of a file number to an application is for administrative convenience and does not indicate the acceptance of the application for filing and processing and does not preclude the subsequent return of the application.

(b) Applications that are incomplete with respect to answers, supplementary statements, execution, or other matters of a formal character will be considered defective and may be returned to the applicant with a brief statement as to such defects. If an applicant is requested by the Commission to file any additional documents or information not included in the prescribed application form, failure to comply with such request will be deemed to render the application defective, and such application may be dismissed. Applications will also be deemed to be defective and may be returned to the applicant in the following cases:

(1) Statutory disqualification of applicant;

(2) Proposed use or purpose of station would be unlawful;

(3) Requested frequency is not allocated for assignment for the service proposed;

(4) The submitted filing fee (if required) is insufficient;

(5) The application does not demonstrate compliance with the special requirements applicable to the radio service involved;

(6) The applications does not include all necessary exhibits; or

(7) The application fails to meet any other Commission requirements.

(c) Any application that has been returned to the applicant for correction will be processed in original order of receipt when resubmitted if it is received within 60 days from the date on which it was returned to the applicant and the change does not involve a major amendment. If the application is not resubmitted within the prescribed

time, it will be treated as a new application and considered at the time other applications received on the same date are considered.

(d) Applications considered defective under paragraph (b) of this section may be accepted for filing if:

(1) The application is accompanied by a request which sets forth the reasons in support of a waiver of (or an exception to), in whole or in part, any specific rule, regulation, or requirement with which the application is in conflict; or

(2) The Commission, upon its own motion, waives (or allows an exception to), in whole or in part, any rule, regulation or requirement.

§ 101.37 Public notice period.

(a) At regular intervals, the Commission will issue a public notice listing:

(1) The acceptance for filing of common carrier applications and major amendments thereto;

(2) Significant Commission actions concerning these applications;

(3) The receipt of common carrier applications for minor modifications made pursuant to § 101.59;

(4) Information which the Commission in its discretion believes of public significance; and

(5) Special environmental considerations as required by part 1 of this chapter.

(b) A public notice will not normally be issued for any of the following applications:

(1) For authorization of a minor technical change in the facilities of a proposed or authorized station where such a change would not be classified as a major amendment to a pending application, as defined by § 101.29, or as a minor modification to a license pursuant to § 101.59;

(2) For temporary authorization pursuant to § 101.31;

(3) For an authorization under any of the proviso clauses of section 308(a) of the Communications Act of 1934 (47 U.S.C. 308(a));

(4) For consent to an involuntary assignment or transfer of control of a radio authorization; or

(5) For consent to a voluntary assignment or transfer of control of a radio authorization, where the assignment or

transfer does not involve a substantial change in ownership or control.

(c) Except as otherwise provided in this part (e.g., § 101.59), no application that has appeared on public notice will be granted until the expiration of a period of thirty days following the issuance of the public notice listing the application, or any major amendment thereto, or until the expiration of a period of thirty days following the issuance of a public notice identifying the tentative selectee of a random selection process, whichever is later.

(d) The listing of an application on public notice as accepted for filing does not indicate that the application has been found by the Commission to be acceptable for filing and does not preclude the subsequent return of the application.

§ 101.39 Dismissal and return of applications.

(a) Except as provided under paragraph (c) of this section and under § 101.41, any application may, upon written request, be dismissed without prejudice as a matter of right prior to the adoption date of any final Commission action or the application's designation for hearing or comparative evaluation.

(b) A request to dismiss an application without prejudice will be considered after designation for hearing, after selection through the comparative evaluation procedure of § 101.51, or after selection as a tentative selectee in a random selection proceeding, only if:

(1) A written petition is submitted to the Commission and, in the case of applications designated for hearing or comparative evaluation, is properly served upon all parties of record;

(2) The petition is submitted before the issuance date of a public notice of Commission action denying the application; and

(3) The petition complies with the provision of § 101.41 (whenever applicable) and demonstrates good cause.

(c) Except as provided under § 101.41, an application designated for inclusion in the random selection process may be dismissed without prejudice as a matter of right if the applicant requests its